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# Recent Developments: Nussle v. Porter: Prison Inmates Are Required to Exhaust Administrative Remedies When Seeking Redress for General Circumstances or Particular Episodes of Alleged Excessive Force or Some Other Wrong

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## *Nussle v. Porter:*

### **Prison Inmates are Required to Exhaust Administrative Remedies When Seeking Redress for General Circumstances or Particular Episodes of Alleged Excessive Force or Some Other Wrong**

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By: Mollie Shuman

**P**rison inmates are required to exhaust administrative remedies when seeking redress for general circumstances or particular episodes of alleged excessive force or some other wrong. *Nussle v. Porter*, 534 U.S. 516, 532, 122 S.Ct. 983, 992 (2002). The Supreme Court stated that the exhaustion requirement is mandatory for all actions brought with respect to prison conditions. *Id.* at 520, 122 S.Ct. at 986.

Ronald Nussle ("Nussle"), a state prison inmate at the Cheshire Correctional Institution, claimed that he sustained a prolonged period of harassment and intimidation from numerous corrections officers. Perceived as a friend of the Governor of Connecticut with whom officers were feuding over labor issues, Nussle allegedly endured a severe beating in violation of the Eighth Amendment's ban on cruel and unusual punishment. The prisoner claimed that he was ordered to leave his cell, where several officers unjustifiably attacked him.

Although the Connecticut Department of Correction maintained a grievance system for prisoners, Nussle bypassed the procedure despite a provision of the

PLRA of 1995, as amended in 42 U.S.C. § 1997e(a), which orders: "No action shall be brought with respect to prison conditions under section 1983 of this title, or any other federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Without filing a grievance under applicable Connecticut Department of Correction procedures, Nussle commenced a federal action under 42 U.S.C. § 1983.

The Court of Appeals for the Second Circuit held that the exhaustion of administrative remedies is not required for a claim such as the one Nussle asserted. *Id.* The court opined that PLRA's use of "prison conditions" covers only conditions affecting prisoners generally, not single incidents directed at particular prisoners. *Id.* Nonetheless, other federal appellate courts have stated that prisoners alleging assaults by guards are required to meet the PLRA's exhaustion requirement before commencing a civil rights action. *Id.* at 523, 122 S.Ct. at 987. The Supreme Court granted certiorari to determine whether the prison grievance process must precede

court action. *Id.*

In 1980, Congress introduced a limited, discretionary exhaustion prescription for suits initiated by state prisoners. *Nussle*, 534 U.S. at 523, 122 S.Ct. at 987. This statute surpassed 42 U.S.C. § 1983, which authorized plaintiffs pursuing civil rights claims to bypass administrative remedies before filing suit in court. *Id.* In 1996, as part of the PLRA, Congress invigorated the exhaustion requirement to mandate all "available" remedies to be exhausted. *Id.* at 524, 122 S.Ct. at 988.

Moreover, Congress enacted Section 1997(e)(a) to reduce the quantity and improve the quality of legal action with the introduction of an exhaustion requirement for suits initiated by state prisoners. *Id.* at 524-25, 122 S.Ct. at 988. Congress required prisoners to address complaints internally before initiating a federal case in efforts to reduce frivolous claims and even improve prison administration and inmate satisfaction. *Id.* at 525, 122 S.Ct. at 988.

Absent Congress's definition of the term "prison condition" in the text of the exhaustion provision, the Court opined that the PLRA and

the *McCarthy v. Bronson* holding may elucidate meaning. *Id.* at 526, 122 S.Ct. at 989 (citing 500 U.S. 136, 111 S. Ct. 1737 (1991)). The *McCarthy* court analyzed the pertinent language of 28 U.S.C. § 636(b)(1)(B), which states: "a judge may . . . designate a magistrate to conduct hearings . . . of applications . . . made by individuals convicted of criminal offenses and of prisoner petitions challenging conditions of confinement." *Nussle*, 534 U.S. at 526, 122 S. Ct. at 989.

Pursuant to *McCarthy*, the Court interpreted the term "prison condition" in its entire context rather than in isolation. *Id.* at 527, 122 S. Ct. at 990. By avoiding a specialized exception of subcategories, the Court held this language as further support of Congress's intent to authorize the nonconsensual reference of all prisoner petitions to a magistrate. *Id.* at 527, 122 S. Ct. at 989. Thus, the PLRA's dominant concern to promote administrative redress, reduce groundless claims, and discourage frivolous claims encouraged the Court to classify suits about prison guards' use of excessive force as within the term, "with respect to prison conditions." *Id.* at 528, 122 S.Ct. at 990.

Nussle placed principal reliance on *Hudson v. McMillian*, 503 U.S. 1 (1992), and *Farmer v. Brennan*, 511 U.S. 825 (1994), to define the proof requirements of what injury a plaintiff must allege and what mental state a plaintiff must plead and prove. *Nussle*, 534 U.S. at 528, 122 S.Ct. at 990. Although insignificant to the case at hand, the

Court extended the rationale to suggest Congress' intent to require exhaustion. *Id.* The Court noted that eliminating judicial discretion to use the exhaustion requirement and deleting the former constraint that administrative remedies be plain, speedy, and effective before exhaustion could be required emphasized the necessity of this requirement. *Id.* at 524, 122 S.Ct. at 988.

The *Nussle* holding provides great insight into the legal rights of Maryland prisoners. The Court plainly emphasized a lack of discretion among claims of inmates, whether pertaining to particular episodes of violence or general circumstances of injustice. The Court's holding emphasized that all claims of state inmates must be exhausted through administrative remedies before they may be addressed in a judicial forum. This exhaustion requirement would provide relief to the overworked district judges who may be handling frivolous cases or cases that could be resolved by utilizing internal administrative proceedings.

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